

SUPERIOR COURT OF CALIFORNIA

County of San Diego

CSR

DATE: August 10, 2005

DEPT. 71

REPORTER A:

PRESENT HON. RONALD S. PRAGER

REPORTER B:

CSR#

JUDGE

CLERK: K. Sandoval

BAILIFF:

REPORTER'S ADDRESS: P.O. BOX 128

SAN DIEGO, CA 92112-4104

Judicial Council
Coordination Proceedings
No. JCCP 4041

Coordination Proceeding Special
Title [Rule 1550(b)]

TENTATIVE RULING PEOPLE OF THE STATE VS. BEKENTON

The Court stays ruling on the Application for Enforcement Order, pending a determination on the merits of Bekenton's claim in the declaratory relief action that California and the other Settling States breached the MSA by giving favorable deals to General Tobacco and other cigarette manufacturers without revising the MSA to contain relatively favorable terms. The Attorney General had at least constructive knowledge of the payment amount disputed in Bekenton's April 7, 2005 letter. Therefore, the fact that the letter does not set forth specific amounts disputed is not sufficient reason to hold Bekenton liable for the full 2005 payment.

Oral argument on the Application for Enforcement Order will be held on August 25, 2005, at 10:00 a.m. At that time, a Case Management Conference will also be held on the declaratory relief action. In addition, the parties should be prepared to discuss at the August 25 hearing resolution of certain issues based on stipulated facts. Finally, the Attorney General's request for discovery in the declaratory relief action will be addressed at the August 25 hearing.

As stated in the conference held on August 8, 2005, the Court grants leave for the Attorney General to file a cross-complaint in the declaratory relief action by August 22, 2005.